

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

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KATHY BISER,	*	
	*	No. 17-1880V
Petitioner,	*	Special Master Christian J. Moran
	*	
v.	*	Filed: March 24, 2021
	*	
SECRETARY OF HEALTH	*	Stipulation; Tetanus Diphtheria;
AND HUMAN SERVICES,	*	acellular Pertussis (“Tdap”) vaccine;
	*	shoulder injury related to vaccine
Respondent.	*	administration (“SIRVA”).
* * * * *	*	

Joseph Vuckovich, Maglio Christopher & Toale, P.A., Washington, DC, for
Petitioner;
Emilie Williams, United States Dep’t of Justice, Washington, DC, for Respondent.

UNPUBLISHED DECISION¹

On March 23, 2021, the parties filed a joint stipulation concerning the petition for compensation filed by Kathy Biser on December 5, 2017. Petitioner alleged that the Tetanus-Diphtheria-acellular-pertussis (“Tdap”) vaccine she received on or about May 25, 2016, which is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a), caused her to suffer from a shoulder injury related to vaccination administration (“SIRVA”). Petitioner further alleges that she suffered the residual effects of this injury for more than six months. Petitioner represents that there has been no prior award or settlement of a civil action for damages on her behalf as a result of her condition.

¹ The E-Government Act, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Respondent denies that the Tdap vaccine caused petitioner to suffer from SIRVA or other shoulder injury and denies that petitioner experienced the residual effects of the alleged injury for more than six months.

Nevertheless, the parties agree to the joint stipulation, attached hereto. The undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

Damages awarded in that stipulation include:

A lump sum payment of \$54,326.42 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment according to this decision and the attached stipulation.²

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.